

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON/GREENWOOD DIVISION

Timothy A. Jackson,	)	
	)	
Plaintiff,	)	C.A. No. 8:10-cv-01403-JMC
	)	
v.	)	<b>OPINION &amp; ORDER</b>
	)	
Fuji Photo Film, Inc., FUJIFILM	)	
Manufacturing USA, Inc.,	)	
	)	
Defendants.	)	
_____	)	

This matter is now before the court upon the Magistrate Judge’s Report and Recommendation addressing Defendant FUJIFILM Manufacturing USA, Inc.’s (“Defendant”) Motion to Dismiss [Doc. 9].

Plaintiff filed this action against Defendant alleging failure to accommodate and for retaliation pursuant to the Americans with Disabilities Act of 1990 (“ADA”), 42 U.S.C. § 12101, *et seq.* The Magistrate Judge’s Report and Recommendation [Doc. 18], filed on November 15, 2010, recommends that the court stay this matter pending resolution of related case captioned, *Jackson v. FUJIFILM Manufacturing USA, Inc.*, CA No. 8:09-cv-01328-JMC (“First Action”).

After reviewing the record in this case, and based on the resolution of the related case, the court declines to adopt the Magistrate Judge’s recommendation. Instead the court grants Defendant’s Motion to Dismiss on the grounds of *res judicata*.

*Res judicata* prevents a party from relitigating in a second suit matters involving the same parties or their privies based on the same cause of action if the court in the first suit issued a judgment on the merits. *See Martin v. American Bancorporation Retirement Plan*, 407 F.3d 643, 650 (4th Cir. 2005). Further, *res judicata* not only “bar[s] claims that were raised and fully litigated,” but also “ ‘prevents litigation of all grounds for, or defenses to, recovery that were previously available to the parties, regardless of whether they were asserted or determined in the prior proceeding.’ ” *Peugeot Motors of America, Inc. v. Eastern Auto Distributors, Inc.*, 892 F.2d 355, 359 (4th Cir. 1989). To establish *res judicata* as a bar to litigation, a defendant must establish three elements: (1) identity of the parties or their privies in the two suits; (2) identity of the subject matter in both the earlier and the later suit; and (3) a final determination on the merits of the claim in the prior proceeding. *Martin*, 407 F.3d at 650.

Plaintiff’s claims in the instant case are barred by *res judicata*. The First Action involved the same parties, the same subject matter, and there was a judgment on the merits.

It is therefore **ORDERED** that Defendant's Motion to Dismiss [Doc. 9] is granted.

**IT IS SO ORDERED.**

s/ J. Michelle Childs  
United States District Judge

February 7, 2011  
Greenville, South Carolina